

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

TERRANCE KEATON, Individually
and on Behalf of Others Similarly Situated

PLAINTIFF

v.

No. 4:18-cv-736-DPM

GAMMA HEALTHCARE, INC.

DEFENDANT

ORDER

Keaton worked as a phlebotomist supervisor in one of Gamma's laboratories for about three years. *No 8-7 at 1*. He alleges that Gamma misclassified him and other phlebotomist supervisors as exempt employees and didn't pay them overtime. He now seeks to conditionally certify a FLSA group that covers all phlebotomist supervisors employed by Gamma since October 2015. Gamma argues two things: there are too few folks involved to justify a group; and potential group members' claims vary too much because they live in six states.

The motion to conditionally certify, *No 8*, is granted with directions on the notice. Keaton has met the lenient applicable standard: he's shown that a similarly situated group exists. *Helmert v. Butterball, LLC*, 2009 WL 5066759, at *3 (E.D. Ark. 15 Dec. 2009). The potential group is small—sixteen—but big enough to handle collectively for efficiency's sake. There's no state-law-variation

problem because Keaton's collective claim is based only on the FLSA.

The Court therefore conditionally certifies this group:

All phlebotomist supervisors employed by Gamma Healthcare, Inc. at any time since 3 October 2015.

Gamma must post notice in all its facilities. Notice to group members through text is fine. Notify members by mail only if no working cell number is available. One follow-up by postcard is fine, too. Do not enclose the pleadings with any notice. Gamma doesn't have to provide email addresses, but it must provide all other contact information by 7 February 2019. The opt-in period will close on 8 May 2019.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

30 January 2019